

Remarks/Arguments

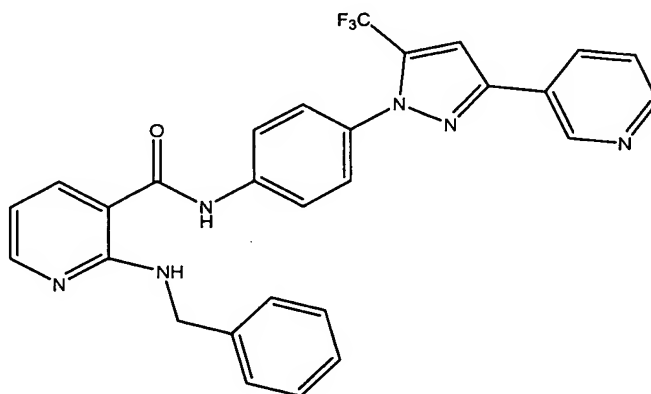
Reconsideration and allowance are respectfully requested in light of this amendment and the following remarks. Applicants have amended the claims to expedite prosecution of the application. This amendment is not intended to acquiesce to the rejections raised by the Examiner and Applicants reserve the right to pursue broader claim subject matter in follow-on applications.

Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected as being an improper Markush claim. Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over the pending claims of co-pending application 10/197974. Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected under 35 USC §102(e), as being anticipated by Betageri et al. US Pat. No. 5,606,747. Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected under 35 USC §103(a), as being unpatentable over Betageri et al. US Pat. No. 5,606,747.

Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected as being an improper Markush claim. The pending claims encompass the elected species.

Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over the pending claims of co-pending application 10/197974. Although the Applicants do not agree with the rejection, the provisional nature of the rejection is noted and Applicants request that the issue be deferred until such time as allowable subject matter has been indicated in this application.

Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected under 35 USC §102(e), as being anticipated by Betageri et al. US Pat. No. 5,606,747. Examiner identifies compound 879 as the anticipating species



Applicants assert that Claims 43-55 and 58-63 are not anticipated by this species in view of the proviso included in Claim 43. Applicants request reconsideration of the rejections in view of the pending Claims.

Claims 1, 4-5, 10-11, 16-22, 35, 43-55 and 58-63 were rejected under 35 USC §103(a), as

being unpatentable over Betageri et al. US Pat. No. 5,606,747. Applicants request reconsideration of the rejections in view of the amended Claims. The compounds described in Betagari et al. require a specific pyrazolyl substituted benzamide. There is nothing in Betagari et al. that would lead one to make the compounds of the present invention.

New species claims (71-80) are directed to examples of interest.

Claim 71 claims the compound of Example 155, page 288.

Claim 72 claims the compound of Example 72i, page 235.

Claim 73 claims the compound of Example 120, page 249.

Claim 74 claims the compound of Example 973, page 372.

Claim 75 claims the compound of Example 917, page 366.

Claim 76 claims the compound of Example 982, page 373.

Claim 77 claims the compound of Example 133, page 62

Claim 78 claims the compound of Example 72f, page 235.

Claim 79 claims the compound of Example 72a, page 234.

Claim 80 claims the compound of Example 838, page 356.

The pending claims can be described in the following ways:

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|---------------------|---|
| Claims 43-44 and 83 | proviso removes compounds with (1) an unsubstituted pyridine core; (2) non-aromatic rings for R ¹ or (3) requires specific substituents on R or R ¹ . |
| Claims 45-46 and 82 | claim compounds with non-aromatic rings for R ¹ ; |
| Claims 47-48 and 80 | claim compounds with a substituted pyridine core (R ² is not H) |
| Claims 49-50 and 81 | the proviso requires compounds to have specific substituents on R ¹ . |
| Claims 51-52 and 84 | claim compounds with specific non-aromatic rings or O and S containing rings for R. |

Applicants assert there is no interfering subject matter between the pending claims and Manley US Pat. No. 6,624,174. In addition to there being no overlap in the subject matter, the present claims are neither anticipated nor obvious over the '174 patent.

Applicants assert there is no interfering subject matter between the pending claims and Beight US Pat. No. 6,689,780. In addition to there being no overlap in the subject matter, the present claims are neither anticipated nor obvious over the '780 patent.

Recently identified documents are included in a Supplementary IDS and PTO 1449 separately provided to the Examiner.

It is therefore respectfully submitted that Claims 43-55, 63 and 70-84 are now in condition for allowance. Accordingly, reconsideration and withdrawal of the outstanding rejections, and allowance of Claims 43-52, 63 and 70-84 are respectfully solicited.

Respectfully submitted,



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